

REMARKS

By the above amendments, claims 2 and 21 have been amended. The amendment to claim 2 merely removes a superfluous duplicate article “a.” In view of these actions and the following remarks, further consideration of this application is requested.

Claims 21, 2-4, 8-20, and 22-24 have now been rejected under 35 USC § 103 as being unpatentable over the Bienert et al. patent when view in combination with applicants’ admitted prior art, i.e., the “SentryGlas” Plus safety glass interlayer of DuPont (hereafter, the “SentryGlas material”). However, this rejection is inappropriate since not only is there is nothing in the disclosure of the Bienert et al. patent as to the use of a “cement material having the properties of a flat shatterproofing element” (as set forth in claim 21) for their splinter-protection sheet 6 or the use of the sheet 6 for cementing of the attachment part (lower frame member 7) to the pane (cover plate 5), but there is not even a disclosed need or reason to do so. The Bienert et al. patent merely indicates that sheet 6 has an adhesive for attachment of it to the pane. Moreover, there is no indication whatsoever that sheet 6 cements the lower frame member 7 to the pane 5, as acknowledged by the Examiner, and to the contrary, as recited in claim 1 of the Bienert et al. patent:

... said upper and lower frame members being of a thickness and being rigidly interconnected in a fixed relationship with respect to each other *so as to secure the peripheral edge of the cover plate*, ..., wherein the means for rigidly interconnecting the upper and lower frame members include a lip means provided on the lower frame member and a recess means formed in the upper frame member for accommodating the lip means, and wherein the recess means and the lip means comprise a catch means by which the lip means is held in the recess means.

Thus, rather than being cemented to the cover plate 5, the lower frame 7 acts together with upper frame 8 to clamp the cover plate 5 between them so as to secure the cover plate “for preventing deformations or warping of the cover plate.” As such, not only is there no disclosure of cementing of the lower frame 7 cover plate 5 via the sheet 6 (or even of the sheet 6 being made of a layer of a cement material), but there is clearly no need for any cementing of the lower frame 7 to the cover plate 5 via the splinter prevention sheet 6.

As for the Examiner’s reliance on applicants’ disclosure of their use of the SentryGlas material, it is both improper and based on conclusions lacking in any appropriate supporting

facts. In particular, the Examiner's "understanding" that applicants are "using a commercially available material for its known properties to replace a previously known material with lesser properties" is incorrect in two respects. First, the SentryGlas material is only taught by its manufacturer for use as a "safety glass interlayer" and there is nothing in DuPont's materials that would suggest that the SentryGlas material is suitable for attaching metal frame elements to a glass pane. Also, the present applicants are not using it to "replace a previously known material" since no sheet material is used by Bienert et al. to secure his frame 7 to their glass pane and surely the Examiner is not suggesting that there is some basis for substituting the SentryGlas material for the use of upper frame 8 of Bienert et al.'s arrangement.

Furthermore, since the SentryGlas material is designed as an interlayer that has an adhesive on both sides, it cannot be left uncovered in the areas that are located away from Bienert et al.'s frame 7 if it were to be used in place of their sheet 6; yet, why would one of ordinary skill go to the expense of requiring the use of two layers (i.e., the SentryGlas material layer and a cover layer corresponding to layers 14 & 16 of the present application) when there is no clear indication of any need to use an adhesive to secure frame 7 in addition to the clamping effect produced by Bienert et al.'s frame 8 and because such a modification would eliminate the structure required "for preventing deformations or warping of the cover plate?" It is only because the present applicants are able to use their adhesive layer for direct attachment of a reinforcing or retaining element to the pane without the need for other elements that "a simple and economical production of the arrangement is enabled" (see, the sentence of paragraph [0010] spanning pages 2 & 3 of the substitute specification). Thus, it most certainly is NOT "merely common sense to further bond the element 7 of Bienert et al. to the pane" as asserted by the Examiner.

Thus, the Examiner's hindsight use of applicants' own disclosure of the suitability of the SentryGlas material for applicants' purposes is not only improper, but is not obvious in the context of the Bienert et al. disclosure. Accordingly, reconsideration and withdrawal of the § 103 rejection based upon the Bienert et al. patent when viewed in combination with the SentryGlas material is in order and is now requested.

As for the rejection of claims 5 & 6 based upon the Bienert et al. patent when viewed in combination with the SentryGlas material and either of the two Bolton et al. references, not only

do these references not overcome the deficiencies described above relative to the basic combination of the Bienert et al. and SentryGlas material, but the Examiner's position supports applicants' argument above as to why the basic combination is not obvious, i.e., one of ordinary skill would not go to the expense of requiring the use of two layers when there is no clear indication of any need to use an adhesive to secure frame 7 in addition to the clamping effect produced by Bienert et al.'s frame 8. Thus, while it might be possible to reconstruct the claimed invention from the prior art using applicants' disclosure as a guide, in no realistic way would one of ordinary skill modify Bienert et al.'s cover as has been proposed by the Examiner based solely on what is disclosed in the prior art and common sense (one would not increase costs and weight if no need to add extra layers to Bienert et al.'s cover exists at all). Therefore, this rejection under § 103 should also be withdrawn.

Therefore, in the absence of new and more relevant prior art being discovered, this application should now be in condition for allowance and action to that effect is requested. However, while it is believed that this application should now be in condition for allowance, in the event that any issues should remain, or any new issues arise, after consideration of this response which could be addressed through discussions with the undersigned, then the Examiner is requested to contact the undersigned by telephone for the purpose of resolving any such issue and thereby facilitating prompt approval of this application.

Respectfully submitted,



David S Safran
Registration No. 27,997

Customer No. 25570

Roberts Mlotkowski Safran & Cole, P.C.
P.O. Box 10064
McLean, VA 22102

Telephone: (703) 584-3273

DSS:kmm